

# Exhibit 1

1 IN THE UNITED STATES BANKRUPTCY COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 IN RE: § CASE NO. 22-90341-11  
5 CORE SCIENTIFIC, INC., § JOINTLY ADMINISTERED  
ET AL, § HOUSTON, TEXAS  
6 § WEDNESDAY,  
§ SEPTEMBER 13, 2023  
7 DEBTORS. § 1:08 P.M. TO 1:48 P.M.

8 **EMERGENCY HEARING (VIA ZOOM)**

9 BEFORE THE HONORABLE DAVID R. JONES  
10 UNITED STATES BANKRUPTCY JUDGE

11  
12 APPEARANCES: SEE NEXT PAGE

13 RECORDED VIA COURTSPEAK

14  
15  
16  
17  
18  
19  
20 **TRANSCRIPTION SERVICE BY:**

21 JUDICIAL TRANSCRIBERS OF TEXAS, LLC  
22 935 Eldridge Road, #144  
23 Sugar Land, TX 77478  
281-277-5325  
www.judicialtranscribers.com

24 Proceedings recorded by electronic sound recording;  
25 transcript produced by transcription service.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

APPEARANCES (VIA ZOOM):

FOR SPHERE 3D CORP: HUNTON ANDREWS KURTH  
Ashley Harper, Esq.  
Brandon Bell, Esq.  
600 Travis Street  
Suite 420  
Houston, TX 77003  
713-220-3631  
  
Gregory Wolf, Esq.  
  
FOR CORE SCIENTIFIC: WEIL GOTSHAL, ET AL  
Theodore Tsekerides, Esq.  
767 Fifth Avenue  
New York, NY 10153  
212-310-8000

(Please also see Electronic Appearances.)

1        **HOUSTON, TEXAS; WEDNESDAY, SEPTEMBER 13, 2023; 1:08.M.**

2                THE COURT: All right, good afternoon, everyone.  
3 This is Judge Jones. We're having a problem with the camera  
4 so give us just a minute. I need -- we were having  
5 difficulty getting the lectern camera up. So we reset. It  
6 should only take a minute or so.

7                I will say I've activated the hand-raising  
8 feature. If you know you're going to be speaking, if you go  
9 ahead and give me a five star and that way once we get the  
10 camera up, we can get started right away.

11                (Pause in the proceedings.)

12                THE COURT: And Mr. Wolf, I saw you raise your  
13 hand. That tells me that you want to speak, but I've got to  
14 get a five star on your telephone. That will open up your  
15 line.

16                (Pause in the proceedings.)

17                THE COURT: There we go. Thank you.

18                MR. WOLF: Thank you, Judge.

19                (Pause in the proceedings.)

20                THE COURT: We ran over a bit on class today.  
21 It's -- today is Wednesday. It's I'm hard to shut up once I  
22 get going.

23                (Pause in the proceedings.)

24                THE COURT: Then officially good afternoon,  
25 everyone. This is Judge Jones. The time is 1:12 Central.

1 Today is September the 13th, 2023. This is the docket for  
2 Houston, Texas.

3 On the 1:00 o'clock docket we have the jointly  
4 administered cases under Case No. 22-90341, Core Scientific,  
5 Inc.

6 Folks, please don't forget to record your  
7 electronic appearance. That's a quick trip to the website,  
8 a couple mouse clicks. You can do that at any time prior to  
9 the conclusion of the hearing. But it is the way that we  
10 note your official appearance this afternoon.

11 Since we do have folks both in the courtroom as  
12 well as on GoToMeeting, for those of you in the courtroom,  
13 if you do rise to speak, just please make sure that you come  
14 to the lectern. It's the only place we have a camera and I  
15 want you to both be seen and be heard.

16 For those of you who are on GoToMeeting, as I  
17 indicated earlier, I have activated the hand-raising  
18 feature. If you decide to speak and you haven't already  
19 done so, I need a five star on your phone. You only need to  
20 do that once. The hand-raising feature on GoToMeeting just  
21 lets me know that you would like to be heard.

22 First time that you do speak, and I only need it  
23 once, if you would please state your name and who you  
24 represent. That serves as a good point of reference for the  
25 court reporters in the event a transcript request is made.

1           And finally, we are recording this afternoon using  
2 CourtSpeak. I will have the audio of the hearing up on the  
3 docket available for your download shortly after the  
4 conclusion of today's hearing.

5           All right, with that, Ms. Harper are you taking  
6 the lead this afternoon?

7           MS. HARPER: Good afternoon, Your Honor. Ashley  
8 Harper, Hunt Andrews Kurth on behalf of Sphere 3D. I'm  
9 joined in the courtroom by my colleague Brandon Bell and on  
10 the line virtually is my co-counsel Gregory Wolf who will be  
11 taking the lead today.

12           THE COURT: All right. Thank you.

13           MS. HARPER: Thank you for accommodating us today  
14 on an emergency basis.

15           THE COURT: No, absolutely. Thank you.

16           Mr. Wolf, good afternoon.

17           MR. WOLF: Good afternoon, Your Honor. So may I  
18 begin, or do you want to speak to my adversary first as  
19 well?

20           THE COURT: No, if you would just give me a quick  
21 update with where we are. For all of the issues in the  
22 motion still outstanding, have we made any progress, just.  
23 I don't want to tread where resolution has been reached.

24           MR. WOLF: Yes, sir. Sure. So I would also note  
25 also on the line is Sphere CEO, Patty Trumpeter (phonetic).

1           So we made progress on many issues, but  
2 unfortunately not the issues that were raised in the motion.

3           THE COURT: Okay, then did you want to make any  
4 opening comments? I'll give Mr. Tsekerides the same  
5 opportunity. But I've read it.

6           Quite frankly I don't know who drafted it. I have  
7 a suspicion who drafted it. This was done in the way I like  
8 to see it. It's just straightforward. It's sequential. It  
9 didn't take me very long to get ready at all.

10           So I'm -- however you'd like to proceed, I'm open  
11 and ready to go.

12           MR. WOLF: You know, Your Honor, I think we've set  
13 forth our conditions in the motion. I'm happy to give my  
14 speech, but I think it would be very similar to what's in  
15 the motion.

16           THE COURT: Okay.

17           MR. WOLF: I guess I would ask do you have any  
18 questions based upon what you read?

19           THE COURT: Not at all. What I intend on doing  
20 after I give Mr. Tsekerides an opportunity to speak, is I'm  
21 just going to march right through them sequentially. I'm  
22 going to hear from each of you and I'm going to make a  
23 ruling.

24           MR. WOLF: Okay.

25           MR. TSEKERIDES: Okay. Theodore Tsekerides for

1 the Debtors for Weil Gotchal. We also filed a cross-motion.  
2 I don't know if you saw that, Your Honor.

3 THE COURT: I did not see that. When was that  
4 filed?

5 MR. TSEKERIDES: About an hour ago.

6 THE COURT: Oh, I was in -- I have class in my  
7 courtroom every Wednesday at noon. So no, I have not seen  
8 that. But we will -- let's go through 1221 and then if we  
9 need to take a break and I can -- I will do that and read  
10 1222 and then we can work through that one.

11 MR. TSEKERIDES: Okay. And 1222 is our motion.  
12 It's also the opposition. But I can argue it just as well  
13 from here.

14 THE COURT: All right. So do you want to give me  
15 any general comments or shall we just move directly to the  
16 issues?

17 (Multiple speakers.)

18 MR. TSEKERIDES: I don't think -- sorry, go ahead.  
19 No. please. That's all right. And then you can come back  
20 on.

21 Yeah, we had another issue that we were able to  
22 resolve this morning that ended up not being in our  
23 cross-motion. So we did make some progress there.

24 I mean, I know you haven't read it yet, but that  
25 was, I think, helpful. We had a lot of issues starting the



1 day yesterday and got it down to these handful.

2 So I think it's positive, but you know we still  
3 have some disagreements.

4 THE COURT: All right. So fair enough. So let's  
5 just do this: As I understand it, the first issue that was  
6 brought by Sphere was the request for admission number two.  
7 Everybody agree that that's the first issue identified?

8 MR. TSEKERIDES: That's correct.

9 THE COURT: So let me tell you -- this is very  
10 easy for me. I understand the potential for ambiguity in  
11 using the words "sign off." I do understand and I really  
12 appreciate the inclusion of the exchange.

13 Does anyone have any objections if we substitute  
14 the word "approved" for "signed off"?

15 MR. WOLF: No objection from Sphere.

16 THE COURT: Mr. Tsekerides, if -- unless you want  
17 to make an argument that I can't conceive of, but I know  
18 you're that creative. To me that's just really easy.

19 The question would then be admit that you approved  
20 Sphere's press release dated October 13th, 2021. And that's  
21 either a yes or no.

22 MR. TSEKERIDES: Okay, we'll respond to that. So  
23 I agree with you and we'll respond to that, you know, in the  
24 next couple of days with a no.

25 THE COURT: All right.

1 MR. TSEKERIDES: But okay.

2 THE COURT: Well we'll talk about deadlines when  
3 we get to the end.

4 Mr. Carlson, and I don't mean to give you busy  
5 work, but this is important. Could I ask you just to take  
6 some notes so that there's a clear path forward?

7 (No audible response.)

8 THE COURT: All right, thank you.

9 All right, so the next ones are the  
10 interrogatories. And I really want to understand, Mr. Wolf,  
11 what it is that you are looking for.

12 MR. WOLF: Sure. So what I'm looking for is their  
13 contention on what the offset would be.

14 THE COURT: Right.

15 MR. WOLF: And I don't think that can be answered  
16 through the production of documents. And I'll give you the  
17 inverse.

18 If we had been asked what damages are you  
19 claiming, and I just said, well, look at my -- we're just  
20 going to produce a bunch of documents. Figure it out for  
21 yourself what our lost revenues are, my adversaries would be  
22 the one in the courtroom today saying it deserves to know  
23 what damages we're going to be claiming. We deserve to know  
24 what offset they're going to be claiming in support.

25 THE COURT: All right. First let's start --

1 Mr. Tsekerides, is there going to be the -- is there going  
2 to be an assertion of an offset?

3 MR. TSEKERIDES: There is, Your Honor. And I  
4 think if you look at our responses we did say the topic  
5 areas and we have documents that we're going to produce that  
6 will show how much was spent for XYZ building.

7 But, you know, putting all that together, and  
8 putting it in a number is going to be a difficult thing to  
9 do just to put in a narrative. But what we said we could do  
10 when we put the documents together, we'll say -- because I  
11 think one of their objections was they don't want to sift  
12 through things.

13 They don't have to sift through things. I mean,  
14 we'll produce documents and then we'll identify them because  
15 that's what Rule 33(d) provides. It says, okay, these, you  
16 know, 27 documents shows that we spent you know, Gimble on a  
17 building that was meant for you guys is responsive to  
18 interrogatory 4, 9 and 10. That's what we propose to do.

19 THE COURT: All right, so I'm going to consolidate  
20 interrogatories 4, 9 and 10 and you're going to state the  
21 basis and amount of each offset that you're going to assert?  
22 Okay.

23 MR. WOLF: And you want to address timing at the  
24 end, Your Honor?

25 THE COURT: Yes.

1 MR. WOLF: Okay.

2 THE COURT: All right. The harder one for me was  
3 the interrogatory number 3. And I will tell you Mr. Wolf, I  
4 just didn't understand it. So if you could tell me what it  
5 is you're really asking for, then we can have a  
6 conversation.

7 MR. WOLF: Sure, what I'm after is a complete  
8 statement of what the requirements were. And what they say  
9 is here are six requirements among other things. And if  
10 they know what the requirements were, there shouldn't be  
11 among other things. It should just be six requirements and  
12 then I think it's fair game to get the basis.

13 And the reason for that -- sorry.

14 THE COURT: So let me ask you do you have your  
15 pleading in front of you or can you access it?

16 MR. WOLF: Sure. Which? Our same objection?

17 THE COURT: Paragraph -- yes. 1221.  
18 Paragraph 16, page 7.

19 MR. WOLF: I'm not sure I have it in front of me,  
20 Your Honor.

21 THE COURT: I can put it up. I just didn't know.  
22 Hold on.

23 MR. WOLF: Sure.

24 (Pause in the proceedings.)

25 MR. TSEKERIDES: Are you talking about their

1 filing, Your Honor?

2 THE COURT: Yes.

3 MR. WOLF: Oh, my filing. Oh, I can -- sorry. I  
4 thought you meant our proof of claim. I can bring that up  
5 momentarily.

6 THE COURT: So should be on the screen.

7 MR. WOLF: Yeah, I have it up as well, Your Honor.

8 THE COURT: Okay.

9 MR. WOLF: My apologies.

10 THE COURT: All right, so I read paragraph 16 and  
11 it says, "Interrogatory No. 3 asks what do you contend it  
12 the meaning of the phrase, quote, 'as long as Sphere 3D Corp  
13 satisfies'" insert the word "Core's requirements prior to  
14 state the basis for your interpretation."

15 MR. WOLF: That's fair.

16 THE COURT: What is it? Because I read that and I  
17 could give you a whole lot of answers, none of which would  
18 be helpful, that would be defensible. So are you really  
19 looking for is the actual requirements that they're going to  
20 rely on with respect to the --

21 MR. WOLF: I can --

22 THE COURT: Sorry, go ahead.

23 MR. WOLF: Yes, that's fair, right. That what's  
24 going to happen is they're going to say there are six  
25 requirements and if someone testifies, you know, we met six

1 requirements, and then there's not going to be another  
2 witness who says, wait, hold on, hold on, there was a  
3 seventh requirement.

4 THE COURT: Yeah, so let's --

5 MR. WOLF: That's what we're looking to avoid.

6 THE COURT: All right. So Mr. Tsekerides, I --  
7 again, the way that it was phrased I understood. I  
8 understood the objection. Quite frankly you could have  
9 answered something that had -- that was totally non-  
10 responsive and justified it with the way that that was  
11 asked.

12 But I appreciate the way you did it. Here's  
13 what -- and I'm happy to hear anything that you want to say.  
14 But here's what I'm going to want.

15 If you're going to rely upon a -- if you're going  
16 to rely upon a -- anything that you say constitutes a  
17 requirement, I want you to identify it.

18 If you don't identify it, you can't rely on it.  
19 Fair enough?

20 MR. TSEKERIDES: Understood.

21 THE COURT: All right.

22 MR. WOLF: Thank you, Your Honor.

23 THE COURT: All right. And I think if we move to  
24 request for production of number 13. Mr. Wolf, I'm going to  
25 need some help as to what you're really trying to get to.

1 MR. WOLF: Sure. What we're trying to get to is  
2 that Core had a reason to try to come up with pretextual  
3 reasons to not honor the contract. And the reason in this  
4 case was there were rising electrical costs that they were  
5 not able to pass on the Sphere under the agreement.

6 And thus, they instead said we're not going to  
7 honor the rate any more. You're have to exceed to a higher  
8 rate that basically encompasses these charges that they were  
9 trying to pass on.

10 THE COURT: Okay. And so what is it that you want  
11 -- what is it that you're looking for in the request?

12 MR. WOLF: I'm really looking for internal  
13 communication discussing this issue. I think we're already  
14 getting communications to Sphere and to Griffin, as well.  
15 And so really I'm looking for any communication talking  
16 about passing these costs on to Sphere.

17 I don't think this is going to (indiscernible). I  
18 don't think this is going to be a heavy lift, right. We've  
19 only asked for document submission. I'm not asking for all  
20 documents in the communications.

21 THE COURT: No, got it. I just -- and again, I'm  
22 going to go back. You're going to find that I'm a  
23 relatively literal person. I want to understand exactly  
24 what it is because what you just asked for is not how I read  
25 13. So what I understand you're asking for is you're

1 looking for internal -- non-privileged internal  
2 communications that reference the passing along or the  
3 passing through of additional costs?

4 I mean, that was a question mark.

5 MR. WOLF: Yes, correct. And there would also be  
6 an attempt to do it. And so it didn't actually have to  
7 happen. It could be a discussion of, do we pass these costs  
8 on or not?

9 THE COURT: Okay, Mr. Tsekerides, do you want to  
10 respond to that because it's more.

11 MR. TSEKERIDES: I do.

12 THE COURT: All right.

13 MR. TSEKERIDES: I do. And also -- I appreciate  
14 Your Honor hasn't had a chance to look at our opposition,  
15 but this is really coming down to power pass-through issues  
16 where you might have heard some of that before from some  
17 other counterparties.

18 And that, we have a lot of issues in this case.  
19 That's not one of them. So the reason why we think this is  
20 irrelevant is, I mean, multi-fold.

21 Number one, whether or not any of that happened,  
22 at the end of the day, they're claiming they had a contract,  
23 Order Number 2, and we're saying they never did. And the  
24 parties were working on a whole new contract.

25 So whatever we were asking for more money, they're



1 going to get documents on this new contract. We've already  
2 agreed to that. We read this as a power pass-through issue  
3 and an attempt by them to try to sort of gin up what other  
4 people have done.

5 And we don't think that's relevant here because  
6 Griffins never raised it, we've never claimed nobody paid a  
7 power pass-through. So the whole PPT, as we call it, issue  
8 is not relevant to this case.

9 They're going to get other documents already that  
10 reflect the communications back and forth. I would assume  
11 we have internal non-privilege documents that talk about  
12 what we're going to offer in a contract.

13 But to the extent -- and we read this as that PPT  
14 issue -- we think that's not relevant.

15 THE COURT: Mr. Wolf?

16 MR. WOLF: So I don't -- I think it is relevant  
17 because the PPT issue is that they wanted to pass these  
18 costs on to Griffin and Sphere. And they just found a  
19 different way of doing it which was demanding a higher rate  
20 or saying we're not going to honor the contract.

21 THE COURT: All right. Based upon what I've read  
22 and what I've heard, I'm going to sustain the objection to  
23 response for -- request for production No. 13. All right.

24 And so you're telling me, Mr. Tsekerides, that  
25 what I now need to do is I need to take a break. And I'm

1 assuming Mr. Wolf, have you had the opportunity to read  
2 1222?

3 MR. WOLF: Very briefly, but I already -- I had a  
4 preview of the issue yesterday.

5 THE COURT: All right. Then Mr. Tsekerides, what  
6 I'd like to do is I'd like to take, again just because I  
7 haven't read it, is to take, let's say, a 15-minute break.  
8 Let me read it and resume at 1:45 Central unless you have a  
9 more efficient way of dealing with it.

10 MR. TSEKERIDES: No, I think it would be helpful  
11 for you to look at it and it's really just the second part  
12 because the first part is the opposition to the motion we  
13 just we just finished.

14 THE COURT: Okay.

15 MR. TSEKERIDES: So it's just a few pages. Can we  
16 just stay up on the --

17 THE COURT: Absolutely. And that would be great.  
18 And just for those folks who are watching and listening,  
19 you're telling me isn't going to take me 15 minutes because  
20 I don't need to read the first part.

21 MR. TSEKERIDES: (Indiscernible).

22 THE COURT: All right. Then let's do this: It's  
23 1:29 for those folks who are listening. If you want to stay  
24 on the line that's great. You'll see me pop back on for  
25 those folks, but want to step off and come back. It'll be

1 no sooner than 1:35 Central Time. All right?

2 MR. TSEKERIDES: Thank you, Your Honor.

3 THE COURT: All right, thank you, folks. I'll be  
4 back again no sooner than 1:35.

5 (Recess taken from 1:29 p.m. to 1:36 p.m.)

6 THE COURT: All right, we are back on the Record.  
7 The time is 1:36 Central.

8 Mr. Tsekerides, I've now read your pleading. I've  
9 also specifically read request for production 15 and 20, as  
10 well as interrogatories 2 and 12.

11 Any general comments you wanted to make or shall  
12 we just go as we did with Mr. Wolf?

13 MR. TSEKERIDES: I'm happy to just walk through  
14 like we did.

15 THE COURT: All right, thank you. So let me pull  
16 up --

17 MR. TSEKERIDES: And I think, if you don't mind,  
18 request for production 20 probably sets the stage best for  
19 the other one. They all four largely relate to this merger  
20 agreement communications that we're looking for.

21 THE COURT: Well, I will tell you this: I have  
22 fewer questions about 20 than I do about 15. So I'm more  
23 than happy to start with 20.

24 MR. TSEKERIDES: Yeah and I think, you know, as  
25 we, you know, we can talk about 15. But I think really what

1 they're both designed to get and the issue -- probably more  
2 importantly, the issue in dispute between us are these  
3 communications about the merger agreement's failure, why it  
4 didn't go through.

5 And our view on that is, look, Griffin and Sphere  
6 were supposed to merge. That much we knew. That was out  
7 even before we did the agreement with Griffin. They didn't.

8 And our view was, well, maybe you would have  
9 gotten the rights if that happened, but that never happened.  
10 And so what those two were talking about, you know, maybe  
11 Griffin said, well, wait. You guys don't have the  
12 wherewithal to get these minors that I'm suppose to deploy,  
13 you know, with Core.

14 And that would have been the merger agreement  
15 failed like January or February of 2022. That is a core --  
16 pardon the pun, but a core issue in this case, like if they  
17 said that to each other. If Griffin said that to Core or  
18 Sphere said to Core look these deals fell through. I  
19 couldn't get the financing. The lenders wouldn't give me  
20 the money. We can't do the merger. That's relevant.

21 I'm entitled to that information. And that's  
22 really largely what we're looking for. What was that back  
23 and forth? They've already agreed if Core was mentioned in  
24 the negotiations -- so we worked that out yesterday --  
25 they'll give us -- they'll give us those documents.

1 But I'm really looking for the back and forth  
2 between the two of them on the reason why the merger didn't  
3 happen. Now they can -- they'll produce documents, maybe in  
4 be effect the reason was nothing to do with anything about  
5 inability to raise money, inability to buy miners.

6 But I'm entitled to probe that because that's one  
7 of the arguments we're making. That's one of our defenses  
8 in this case that these guys didn't have the wherewithal  
9 even if Sphere had rights under the contract, they could not  
10 have performed. And that's really the nub of what we're  
11 after.

12 THE COURT: All right. Mr. Wolf?

13 MR. WOLF: Sure. So, let me set the table, Your  
14 Honor. There's no dispute the merger did not occur and you  
15 know, there was this clause in the delegation agreement that  
16 Griffin -- all Griffin's rights would have passed to Sphere  
17 if the merger had occurred from (indiscernible) occurred.

18 And I want to make clear, we're not trying to use  
19 the merger as a shield if Core is mentioned in the context  
20 of merger discussions, it's getting produced. If an  
21 assignment issue is mentioned in the context of merger  
22 discussions, it's getting produced.

23 What I object to is doing a search, just a hunt  
24 related to the merger and the only real grounds of relevance  
25 in hearing is because the merger didn't go through, maybe it

1 will reveal that Sphere was in poor financial condition.

2           You know, I would dispute that that is really  
3 relevant. I think what's more relevant is how the parties  
4 actually performed under the contract.

5           But at best it's borderline and we're already  
6 producing documents that really go to the heart of this  
7 issues. We've agreed to produce and I'm going give you some  
8 answers, Your Honor, or some examples.

9           We've agreed to produce documents reflecting how  
10 many miners Sphere had at a given point. We've produced  
11 documents that are going to show its efforts to raise  
12 capital. We've agreed to produce documents showing its  
13 financial condition. And we've agreed to produce documents  
14 reflecting communications with folks who were selling at  
15 miners.

16           So the notion that the failed merger is going to  
17 reveal better or more than those categories of production  
18 that Sphere didn't have the wherewithal to perform more than  
19 poor financial health, you're really going through it a very  
20 oblique way and a very burdensome way.

21           A merger has a lot of communications. It has a  
22 lot privilege documents. It has a lot of lawyers involved.  
23 So, we would submit that this is really not an appropriate  
24 area for discovery and I would add one more thing, Your  
25 Honor.

1 I think you saw our request to try to keep them  
2 targeted, in line with what you instructed. I think our  
3 adversaries have gone much further than we have. In the  
4 event that you order this discovery, we really don't want to  
5 hear complaints from the other side about the scope of  
6 discovery going forward.

7 THE COURT: All right. Based upon what I've  
8 heard, I'm going to sustain the objection to 15. I'm going  
9 to modify 20 and require the production of all documents and  
10 communications relating to the reasons why the merger  
11 contemplated by the merger agreement was not consummated  
12 and/or did not close.

13 I'm going to narrow it to that one topic as  
14 opposed to all documents of communications related to the  
15 merger. All right?

16 MR. WOLF: Okay.

17 MR. TSEKERIDES: And sorry, Your Honor, what --  
18 and the resolution on the interrogatories.

19 THE COURT: Well, we haven't gotten to it yet.

20 MR. TSEKERIDES: Oh, I apologize.

21 THE COURT: All right, Mr. Tsekerides, let me pull  
22 up Exhibit C so I have the interrogatories in front of me.

23 (Pause in the proceedings.)

24 THE COURT: All right. Mr. Tsekerides, you want  
25 to -- you want to do the same thing with respect to 2 and 12

1 that you did with the request for production?

2 MR. TSEKERIDES: I think so. But I think with 2,  
3 you know, with the understanding that 2 and 12 -- 2 refers  
4 to identify people. Right, and one of the topics is this  
5 topic.

6 And 12 really is the interrogatory version of the  
7 document request which talks about identifying details of  
8 the reasons why the merger -- even exactly what you just  
9 said, Your Honor. The reason why the merger didn't happen.

10 THE COURT: Right.

11 MR. TSEKERIDES: So, you know, we think that they  
12 should have to respond to number 12. But we think  
13 Rule 33(d) if they have documents that they could point to,  
14 would be fine. But if they don't, then they should explain  
15 to us in the narrative form in response to number 12.

16 But we'd be happy with 33(d) if the documents  
17 actually, you know, respond to that.

18 THE COURT: All right. Mr. Wolf?

19 MR. WOLF: So, based on the content of your  
20 ruling, I sort of see where the wind is blowing. What I  
21 would say is for the identification of people, it should be  
22 limited to the topic you've identified, which is the reasons  
23 for the merging -- merger collapsing.

24 And then 15 will -- or 12 whatever it is -- we'll  
25 answer.



1 THE COURT: All right, so again and I think that  
2 let me work backwards.

3 I think the 12 is an appropriate interrogatory and  
4 consistent with what I've done. So I'll overrule the  
5 objection to 12.

6 With respect to 2, I'm perfectly happy with that  
7 resolution. I will just tell you I didn't know how in the  
8 world 2 the way it's written could actually be complied  
9 with.

10 And so if the issue is that will identify persons  
11 that have knowledge, documents, or information concerning  
12 the reasons why the closing didn't occur, I'm perfectly  
13 comfortable with that outcome.

14 Mr. Tsekerides, with just not asking you if you  
15 agree with it, but just given what I've done, do you think  
16 that would be consistent with what I think the appropriate  
17 scope is?

18 MR. TSEKERIDES: I do. And just so we're clear,  
19 as it relates to number 2, we're talking about with respect  
20 to the merger agreement piece. Because they obviously --  
21 they're not going to change their responses for the other  
22 stuff. We're just talking about the merger.

23 Yeah, I think what you said is entirely  
24 appropriate given your ruling and I think that's consistent  
25 with an approach and I think that's what we should do.

1 THE COURT: All right.

2 MR. WOLF: Yeah and I'm not sure the list of  
3 people identified is going to change much.

4 THE COURT: Okay.

5 MR. TSEKERIDES: And that's fine.

6 THE COURT: I don't know what you've done or what  
7 you haven't done. So let me ask this, with the narrowing  
8 that has occurred -- because I told you we would come back  
9 around to timing. I just wanted to see where this was going  
10 to fall out.

11 Look, I know you both. I trust you. I know your  
12 reputations. You-all want to -- you want me to pick a date,  
13 do you want to pick a date between the two of you? Do you  
14 want to step off line for a minute? Do you want to make  
15 argument and I pick a date?

16 I'm happy on either path. I just want what makes  
17 sense.

18 MR. TSEKERIDES: I mean, since we're probably the  
19 ones that have to do more on the interrogatories -- on the  
20 one with the approved I can do like Friday.

21 The ones with the damages, I would ask for a week,  
22 Your Honor.

23 THE COURT: Mr. Wolf?

24 MR. WOLF: A week sounds perfect.

25 THE COURT: All right, and then with respect to

1 any supplementations, changes or answers that you're going  
2 to do, you want to just -- so we don't get lost in the  
3 dates, just make everything due in a week?

4 MR. WOLF: That's sound like an appropriate  
5 resolution, Your Honor.

6 THE COURT: Mr. Tsekerides, you okay with that?

7 MR. TSEKERIDES: That is fine and I forgot about  
8 the requirements one, if I can have a week on that one, too?

9 THE COURT: Everything just gets done in a week.

10 MR. TSEKERIDES: Okay.

11 THE COURT: And so that way --

12 MR. WOLF: So, --

13 THE COURT: Mr. Wolf, yes, sir.

14 MR. WOLF: Sorry, just to be clear, all will be  
15 due the 20th?

16 THE COURT: That would be a week in my book.

17 MR. TSEKERIDES: Mine, too.

18 THE COURT: I guess you could have an eight-day or  
19 10-day calendar. But no using seven-day calendar, 20th is  
20 the day.

21 And let me just make sure.

22 MR. TSEKERIDES: Thank you, Your Honor.

23 THE COURT: I want to make sure this is serious  
24 issue. I want to make sure I'm not stepping on top of any  
25 holidays.

1 (Pause in the proceedings.)

2 MR. TSEKERIDES: Not from me at least. I can't  
3 speak for everyone on my team. But not for me.

4 THE COURT: Got it. So my understanding is Rosh  
5 Hashanah is like Friday or Saturday. I should have it  
6 marked on my calendar and I just don't. And I apologize for  
7 that.

8 On either team if I'm stepping on top of a holiday  
9 with a due date of the 20th, could you please text or scream  
10 at Mr. Tsekerides or Mr. Wolf respectfully?

11 MR. WOLF: Your Honor, if it turns out someone has  
12 an obligation, I'm sure Ted and I can work it out  
13 (indiscernible).

14 THE COURT: All right, fair enough.

15 MR. TSEKERIDES: Yeah, agreed.

16 THE COURT: Then folks what I intend on doing is  
17 just making a simple docket entry that the resolution of the  
18 competing motions is as announced on the Record, pursuant to  
19 7052. Is that sufficient for both of you just in case we  
20 need to go back and visit any of these again?

21 MR. WOLF: Yes, Your Honor.

22 MR. TSEKERIDES: Yes, Your Honor.

23 THE COURT: All right. Thank you.

24 Anything else folks?

25 MR. WOLF: That's it.

1 MR. TSEKERIDES: Thank you for your time, Your  
2 Honor. Appreciate it.

3 THE COURT: Thank you-all. Have a great day.  
4 We'll be adjourned.

5 (Hearing adjourned at 1:48 p.m.)

6 \* \* \* \* \*

7 I certify that the foregoing is a correct  
8 transcript to the best of my ability due to the condition of  
9 the electronic sound recording of the ZOOM/video/telephonic  
10 proceedings in the above-entitled matter.

11 /S/ MARY D. HENRY

12 CERTIFIED BY THE AMERICAN ASSOCIATION OF  
13 ELECTRONIC REPORTERS AND TRANSCRIBERS, CET\*\*337  
14 JUDICIAL TRANSCRIBERS OF TEXAS, LLC  
15 JTT TRANSCRIPT #67684  
16 DATE FILED: SEPTEMBER 20, 2023

17

18

19

20

21

22

23

24

25